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Attorneys for Petitioner

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

BECKY HESTERMAN,)	
)	
Petitioner,)	PETITION TO QUASH
)	SUMMONS
)	
vs.)	
)	
UNITED STATES OF AMERICA,)	Civil No. _____
)	
Respondent.)	Judge _____

COMES NOW the Petitioner, Becky Hesterman, through her attorneys, and Petitions the Court to quash the summons referenced herein, and in support thereof alleges as follows:

PARTIES

1. Petitioner is an individual, residing in the State of Utah.
2. The Internal Revenue Service of the Department of Treasury, United States of America, has taken certain actions, which are the subject of this Petition, out of their office in the

State of Utah.

JURISDICTION

3. This matter is being brought pursuant to 26 *United States Code* Section 7609(b)(2), and this Court accordingly has original jurisdiction over this matter pursuant to 26 *United States Code* Section 7609(h)(1).

GENERAL ALLEGATIONS

4. Petitioner is the spouse of David A. Hesterman.

5. Respondent has alleged that Mr. Hesterman has a tax obligation to Respondent in an amount in excess of \$3,000,000 with penalties and interest, and Respondent has instituted administrative proceedings to collect such amounts from Mr. Hesterman.

6. Petitioner is not a party to the administrative action regarding Mr. Hesterman.

7. As part of its collection efforts, Respondent sent out a Summons to Wells Fargo Bank NA, requesting information regarding: (a) David Hesterman SSN *****1953; (b) Becky Hesterman SSN *****6081 dba or known aliases known; and David Hesterman and/or Becky Hesterman dba or aliases known. (A true and correct copy of the Summons is attached hereto as Exhibit "A".)

8. No notice of the Summons was sent by Respondent to either Petitioner or Mr. Hesterman, in contravention of the requirements of 26 *United States Code* Section 7609(a)(1).

9. Petitioner is not an owner or signatory on any account at Wells Fargo upon which Mr. Hesterman is a signatory, and conversely, Mr. Hesterman is not an owner or signatory on any account at Wells Fargo upon which Petitioner is a signatory, nor do they otherwise have a joint

account at Wells Fargo.

10. Petitioner is a signatory on a corporate account, Innovative Media Connections, on a personal account, and on a credit card account on which her daughter, Emily Nicolich is also a signatory.

11. Petitioner is the sole owner and officer and director of Innovative Media Connections.

12. Mr. Hesterman is not an officer, director, control person, or employee of Innovative Media Connections.

13. Mr. Hesterman does not have or use a credit card associated with the account used by Petitioner and her daughter, Ms. Nicolich.

14. Upon information and belief, Wells Fargo Bank NA may have mailed documentation to Respondent in response to the Summons, part of which included documentation related to the accounts upon which Petitioner is a signatory.

15. 26 *United States Code* Section 7609(h)(1) provides: "No examination of any records required to be produced under a summons as to which notice is required ... may be made: (1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2); or (2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection...."

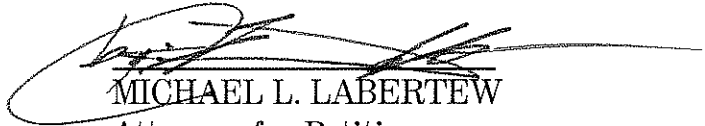
16. Although no notice was provided by Respondent to Petitioner, this matter is being brought within the 20-day period from the date that the Summons was executed by Respondent.

WHEREFORE, Petitioner hereby petitions this Court for the following relief:

1. For an Order quashing the Summons as it relates to Petitioner.
2. For an Order prohibiting Respondent from examining any of the records which may have been produced by Wells Fargo Bank NA related to any accounts upon which Petitioner is a signatory.
3. For an Order requiring that Respondent deposit with the Court any records which may have been produced by Wells Fargo Bank NA related to any accounts upon which Petitioner is a signatory.

DATED this 16 day of June, 2010.

LABERTEW & ASSOCIATES, L.L.C.


MICHAEL L. LABERTEW
Attorney for Petitioner



Summons

In the matter of DAVID HESTERMAN, 698 1ST AVE, MIDVALE, UT 84047-7122

Internal Revenue Service (Division): SMALL BUSINESS/SELF EMPLOYED

Industry/Area (name or number): SB/SE AREA 6 (26)

Periods: See Attachment 1 to Summons Form 2039 for Period Information

The Commissioner of Internal Revenue

To: WELLS FARGO BANK NA

At: SUBPOENA PROCESSING DEPT., PO BOX 29728 MAC S3928-020, PHOENIX, AZ 85038

You are hereby summoned and required to appear before MAUREEN THOMAS, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

Please see the attached listing

If the expense of the summons is more than \$250.00-Please contact the Revenue Officer before the summons is processed.

"Note: Under IRC 7609, this summons is exempt from the notice requirements pertaining to third party summons."

Attestation

I hereby certify that I have examined and compared this copy of the summons with the original and that it is a true and correct copy of the original.

Maureen Thomas

REVENUE OFFICER, 8770214

Signature of IRS Official Serving the Summons

Title

Business address and telephone number of IRS officer before whom you are to appear:

50 SOUTH 200 EAST, MS 5114 SLC, SALT LAKE CITY UT 84111 (801) 799-6676

Place and time for appearance at: 50 SOUTH 200 EAST, MS 5114 SLC, SALT LAKE CITY, UT 84111



IRS

Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 2039 (Rev. 8-2008)
Catalog Number 21405J

on the 18th day of June, 2010 at 9:00 o'clock a m.

Issued under authority of the Internal Revenue Code this 27th day of May, 2010.

Maureen Thomas

MAUREEN THOMAS

Signature of Issuing Officer

REVENUE OFFICER

Title

Q. Paki

Signature of Approving Officer (if applicable)

Acting Group Manager

Title

Part A -- to be given to person summoned

EXHIBIT A